

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*
ROKOSCH *JSR*

THOMPSON - *Absent*

CHILCOTT *gc*

DRISCOLL *LD*

PLETTENBERG (Clerk & Recorder)

Date.....December 29, 2008

Members Present.....Commissioner Carlotta Grandstaff, Commissioner Jim Rokosch, Commissioner Greg Chilcott and Commissioner Kathleen Driscoll

► Minutes: Beth Perkins

► The Board met for a public meeting for Mountain View Orchards Block 15, Lot 17A, AP Minor subdivision. Present were Planner Randy Fifrick and Representative Terry Nelson.

Commissioner Grandstaff called the meeting to order and requested any conflicts of interest. Hearing none, she then requested the Planning Staff Report be read.

Randy presented the Staff Report as follows:

**MOUNTAIN VIEW ORCHARDS BLOCK 15, LOT 17A, AP
TWO-LOT FIRST MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Jennifer De Groot

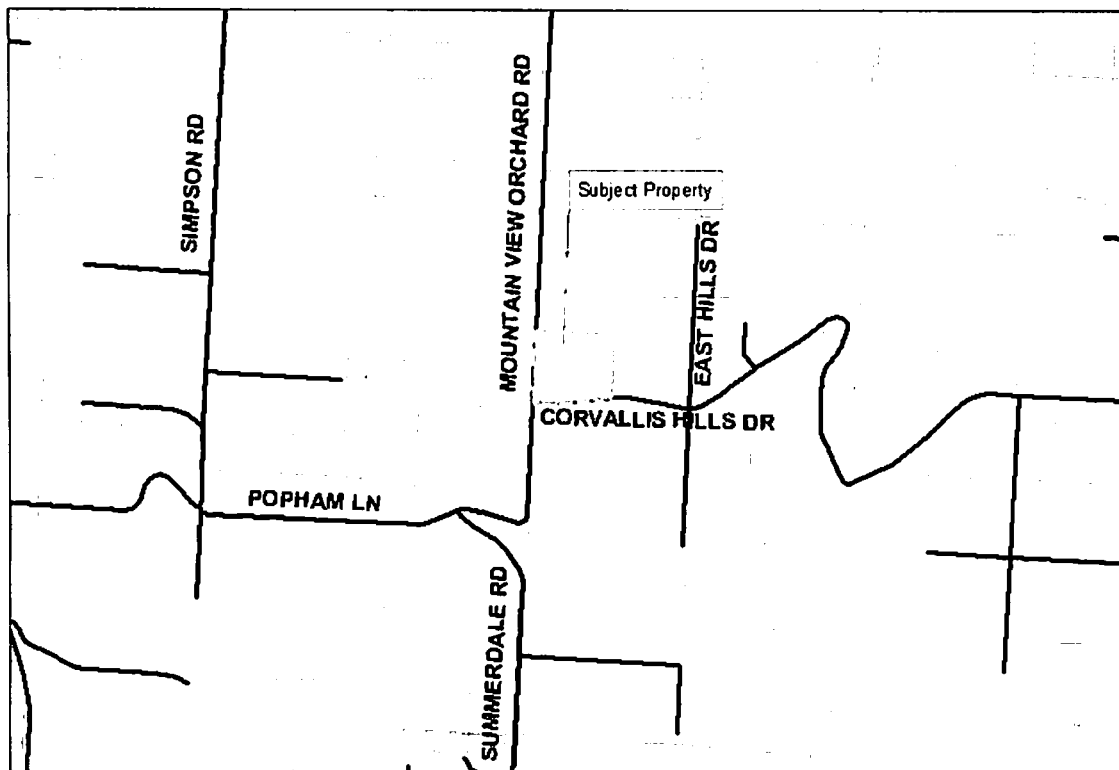
**REVIEWED/
APPROVED BY:** Randy Fifrick

PUBLIC MEETINGS: BCC Public Meeting: 9:00 a.m. December 29, 2008
Deadline for BCC action (35 working days): January 12, 2009

SUBDIVIDER: John & Tina DeVries
778 Moraine Drive
Hamilton, MT 59840

REPRESENTATIVE: Terry Nelson
Applebury Survey
914 US Highway 93
Victor, MT 59875

LOCATION OF REQUEST: The property is located northeast of Corvallis off Corvallis Hills Drive. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

LEGAL DESCRIPTION OF PROPERTY: Section 23, T7N, R20W, P.M.M., Ravalli County, Montana.

APPLICATION INFORMATION: The subdivision application was determined sufficient on November 19, 2008. Agencies were notified of the subdivision on June 6, 2008, and December 9, 2008.

Comments received from agencies are Exhibits A-1 through A-13 of the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended May 24, 2007.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated December 9, 2008. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property: Vacant Rural
North: Agricultural Rural
South: Residential Rural & Proposed
Subdivision
East: Vacant Rural
West: Vacant Rural & Residential Rural

INTRODUCTION

The subdivision proposal is for two lots on 8.05 acres. The subject property has been previously used as pastureland. The property is vacant and is proposed for single-family dwellings. An irrigation ditch runs through the interior of the property. Approximately 2.5 out of the 8 acres of soils on the property are described as "Prime farmland if irrigated" by the Natural Resources Conservation Service.

Staff recommends conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
DECEMBER 29, 2008**

**MOUNTAIN VIEW ORCHARDS BLOCK 15, LOT 17A, AP
TWO-LOT FIRST MINOR SUBDIVISION**

PLANNING STAFF RECOMMENDED MOTION

That the Mountain View Orchards Block 15, Lot 17A, AP First Minor Subdivision be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

PLANNING STAFF RECOMMENDED CONDITIONS

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b) (v), RCSR, Effects on Agriculture*)

Notification of Irrigation Easement. Within this subdivision there is an irrigation easement, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. The Bitterroot Irrigation District must approve any relocation or alteration (e.g. installation of a culvert) of the irrigation canals, ditches, and pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a) and Section 3-2-8(b) (v) (B), RCSR, Effects on Agricultural Water User Facilities*)

Notification of Water Rights. Lots within this subdivision do not have any water rights. Taking water without a water right for any purpose is illegal. (*Section 3-2-8(a) and Section 3-2-8(b) (v), Effects on Agricultural Water User Facilities*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Mountain View Orchards Road frontage of the subdivision. All lots within this subdivision must access off Corvallis Hills Drive. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. (*Section 3-2-8(b) (v), RCSR, Effects on Local Services and Public Health and Safety*)

Notification of Road Maintenance Agreement. Corvallis Hills Drive is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for the road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b) (v) (B), RCSR, Effects on Local Services*)

Notification of Wood Stove Effects on Air Quality. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More

information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (Section 3-2-8(b) (v) (B), RCSR, *Effects on the Natural Environment*)

Notification of Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b) (v) (B), RCSR, *Effects on Natural Environment and Public Health & Safety*)

Notification of Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (Section 3-2-8(b) (v) (B), RCSR, *Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (Section 3-2-8(b) (v), RCSR, *Effects on Local Services and Public Health and Safety*)

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. (*Section 3-2-8(b) (v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. All **garbage** should be stored in bear-resistant containers or indoors. If stored indoors, garbage may not be taken outdoors until the morning of garbage pick-up and containers must be brought back in that evening. Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash storage sites. (If home sites are occupied seasonally, all garbage from the home and other buildings must be removed from the property before closing up for the season.)
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is

against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.

- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecue grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with the

decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)

- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.
- m. These “living with wildlife” covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

Control of Noxious Weeds. A noxious weed evaluation form has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b) (v), RCSR, Effects on Agriculture and Natural Environment*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (*Section 3-2-8(b) (v), RCSR, Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information. (*Section 3-2-8(b) (v), RCSR, Effects on Local Services and Public Health & Safety*)

Archeological Resources. If any archaeological, historic, or pale ontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b) (v), RCSR, Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Section 3-2-8(b) (v), RCSR, Effects on all six criteria*)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment

system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued address for all lots. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Corvallis Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot. Alternatively, the subdividers may provide evidence that a \$900-per-lot contribution has been submitted to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
7. The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Corvallis School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services)*
8. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
9. If a road maintenance agreement (RMA) exists for Corvallis Hills Drive prior to final plat approval, the applicant shall submit a supplement to the existing RMA stating that the owners of the lots within the Mountain View Orchards Block 15, Lot 17A, AP Subdivision are party to the RMA. If there are no existing road maintenance agreements for Corvallis Hills Drive, the applicant shall submit a new road maintenance agreement for Corvallis Hills Drive that states that other parcels that may have beneficial use of the road shall be allowed to join as members of the agreement without the consent of the

current members. *(Section 3-2-8(b)(v)(B), RCSR, Final Plat Requirement 14, Effects on Local Services)*

10. The final plat shall show a no-ingress/egress zone along the Mountain View Orchards frontage of the subdivision, as shown on the preliminary plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*
11. The applicant shall provide for an additional 5 feet of public road and utility easement along the Mountain View Orchards Road frontage of the subdivision on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
12. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on loss of prime farmland. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Effects on Agriculture)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
 - a. Project name
 - b. Title block
 - c. Certificate of registered owner – notarized
 - d. Certificate of registered land surveyor with seal
 - e. Certificate of governing body approval
 - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g. Certificate of public dedication
 - h. Other certifications as appropriate
 - i. North arrow
 - j. Graphic scale
 - k. Legal description
 - l. Property boundaries (bearings, lengths, curve data)
 - m. Pertinent section corners and subdivision corners
 - n. Names of adjoining subdivisions/certificates of survey

- o. Monuments found
 - p. Witness monuments
 - q. Acreage of subject parcel
 - r. Curve data (radius, arc length, notation of non-tangent curves)
 - s. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - t. Lots and blocks designated by number (dimensions/acreage)
 - u. Easements/rights of ways (location, width, purpose, ownership)
 - v. Dedication for public use
 - w. No-ingress/egress zones
 - x. Water resources (rivers, ponds, etc.)
 - y. Floodplains
 - z. Irrigation canals including diversion point(s), etc.
 - aa. High-pressure gas lines
 - bb. Existing and new roads (names, ownership, etc.)
 - cc. Existing and proposed utility, irrigation, and drainage easements, as shown on the preliminary plat, shall be shown on the final plat.
 - dd. The applicant shall provide for an additional 5 feet of public road and utility easement along the Mountain View Orchards Road frontage of the subdivision on the final plat.
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
 8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
 9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
 10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
 11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
 12. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineering plans.
 13. Utility availability certification(s) shall be submitted with the final plat submittal.
 14. A Road Maintenance Agreement, signed and notarized, shall be submitted with the final plat submittal.

15. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch.
16. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
17. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
18. A copy of the letter sent to the Corvallis School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
19. The applicant shall pay the pro rata share of the cost to improve the portion of Popham Lane and Mountain View Orchards Road leading to the subdivision prior to final plat approval. (Section 5-4-5(d), RCSR)
20. Evidence that the improvement has been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2).
 - a. The specific infrastructure improvement required for this subdivision is water supply that meets the requirements of the Corvallis Fire District (if cash is not contributed in lieu of).

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located along Mountain View Orchards Road and Corvallis Hills Drive. (MVO Block 15, Lot 17A, AP Subdivision Application)
2. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subdivision is accessed by Popham Lane, Mountain View Orchards Road, and Corvallis Hills Drive. (MVO Block 15, Lot 17A, AP Subdivision Application)
2. Popham Lane and Mountain View Orchards Road are County-maintained roads, which provide legal and physical access. (RCSR – Exhibit A)
3. Corvallis Hills Drive is a non-County-maintained road within a public easement that provides legal and physical access. (MVO Block 15, Lot 17A, AP Subdivision File)
4. In an email dated October 1, 2008, David Ohnstad, the Ravalli County Road and Bridge Supervisor, stated that Orchard Hills Drive conforms to current county road standards, for this subdivision only. (Exhibit A-1)
5. The applicant is required to pay the pro rata share of the cost to improve the portions of Mountain View Orchards Road and Popham Lane leading to the subdivision to meet County standards. The preliminary pro rata estimate included in the application projects that the applicant will be required to contribute approximately \$3,828.66 in pro rata funds. (RCSR and MVO Block 15, Lot 17A, AP Subdivision Application)
6. *To ensure legal and physical access to the subdivision, the applicant is required to pay the pro rata share of the cost to improve the portions of Popham Lane and Mountain View Orchards Road leading to the subdivision prior to final plat approval. (Final Plat Requirement 19)*

Conclusion of Law

With the requirement of final plat approval, legal and physical access will be provided via Popham Lane, Mountain View Orchards Road, and Corvallis Hills Drive.

C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.

Finding of Fact

The applicant is required to submit evidence that the following improvement has been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirement 20):

- a. *The specific infrastructure improvement required for this subdivision is a water supply that meets the requirements of the Corvallis Fire District (if cash is not contributed in lieu of).*

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that the improvements are installed.

D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
2. There are no irrigation water rights associated with the subject property. (MVO Block 15, Lot 17A, AP Subdivision Application)
3. An irrigation ditch runs through both proposed subdivision lots, but the applicant does not have the right to take water from the irrigation ditch. (MVO Block 15, Lot 17A, AP Subdivision Application)
4. *Condition 1 notifies individual lot owners that they do not have the right to take water from the irrigation ditch on the property.*

Conclusion of Law

With the mitigating condition of approval, this prerequisite has been met.

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or

- other private or public entity formed to provide for the use of the water right on the subdivision lots;
- (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. An irrigation ditch runs through both lots of the proposed subdivision. (MVO Block 15, Lot 17A, AP Subdivision Application)
 3. The applicant is proposing a 10-foot wide irrigation easement along the existing irrigation ditch. The applicant is not proposing to alter the existing ditch and does not have the right to take water from the irrigation ditch. (MVO Block 15, Lot 17A, AP Subdivision Application)
 4. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1) (k) MCA).
 5. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and conditions shall be met prior to final plat approval:*
 - *The existing and proposed irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
 - *A notification that the lots within the subdivision do not have the right to take water from any irrigation infrastructure shall be included in the notifications document. (Condition 1)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Finding of Fact

Section 6-1-5(b) (1) states that minor subdivisions in which only one additional parcel is created are exempt from parkland dedication requirements.

Conclusions of Law

Park dedication is not applicable.

G. Overall Findings and Conclusions on Prerequisite Requirements

There is adequate evidence to demonstrate compliance with each prerequisite to approval.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The subdivision design as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (MVO Block 15, Lot 17A, AP Subdivision File)
2. This development proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the RCSR. (MVO Block 15, Lot 17A, AP Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The requirements for the application and review of this proposed subdivision have been met.

B. Applicable zoning regulations.

Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Clerk & Recorder's Office)
2. The property is not within one of the voluntary zoning districts in Ravalli County. (MVO Block 15, Lot 17A, AP Subdivision File)

Conclusion of Law

There are no zoning regulations that apply to the property.

C. Existing covenants and/or deed restrictions.

Findings of Fact

1. There are existing covenants on the property. (MVO Block 15, Lot 17A, AP Subdivision File)
2. The covenants restrict development of the property to single family residences, which must be a minimum of 1,600 square feet on the main floor, and have a total square footage of 2,400. Commercial uses, except certain home occupations, are restricted on this property. Tracts cannot be subdivided into more than two parcels; minimum lot size must not be less than two and one-half acres. (MVO Block 15, Lot 17A, AP Subdivision File)

Conclusion of Law

The proposal appears to comply with existing covenants.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on August 22, 2007. (MVO Block 15, Lot 17A, AP Subdivision File)
3. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed major subdivision on approximately 8 acres will result in 2 lots of approximately 4 acres each. The property is located northeast of Corvallis off Corvallis Hills Drive. (MVO Block 15, Lot 17A, AP Subdivision File)
2. The property has been used for pasture land in the past. (MVO Block 15, Lot 17A, AP Subdivision File)
3. Parcels to the east and northwest are classified for tax purposes as either vacant land rural. Parcels to the north, south, and southwest are classified for tax purposes as agricultural rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
4. Orchards Hills Estates, a nineteen-lot major subdivision of 81.57 acres located directly south of the proposed subdivision, was given conditional approval on May 13, 2008. (Ravalli County Planning Department Files)
5. According to the Web Soil Survey for Ravalli County, approximately 33% of the soils located on the property are categorized as "Prime farmland if irrigated." (MVO Block 15, Lot 17A, AP Subdivision Application and Web Soil

Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))

6. There are soils on the property listed as Farmland of Local Importance on the Web Soil Survey. (MVO Block 15, Lot 17A, AP Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
7. In a letter dated August 27, 2008, State Conservationist Dave White of the Natural Resource Conservation Service confirmed that the NRCS soils staff would no longer utilize the farmland of local importance soils classification, per the request of the Bitterroot Conservation District. (Exhibit A-2)
8. During a phone conversation on September 24, 2008, Julie Ralston of the Bitterroot Conservation District summarized the reasoning for eliminating the farmland of local importance soils classification. (Exhibit A-3)
9. The applicants submitted a Ravalli County Subdivision Ground Disturbance and Noxious Weed Management Plan that stated Common Tansy and Spotted Knapweed were scattered on the property. (MVO Block 15, Lot 17A, AP Subdivision Application)
10. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
11. *Following are conditions and a requirement of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on loss of prime farmland. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 12)*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agriculture.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. There are no water rights associated with this property. (MVO Block 15, Lot 17A, AP Subdivision Application)
2. The applicant is proposing a 10-foot wide irrigation easement over an existing irrigation ditch that runs through the middle of Lot 17A-1 and the northern third of Lot 17A-2. (MVO Block 15, Lot 17A, AP Subdivision File)
3. *Following are conditions and a requirement of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
 - *All existing and proposed irrigation and drainage easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification stating that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications and covenants document. (Condition 1)*
 - *A notification stating that lots within this subdivision do not have the right to take water from any irrigation infrastructure shall be included in the notifications and covenants document. (Condition 1)*

Conclusion of Law

With the mitigating conditions of approval and requirement of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Corvallis Rural Fire District. (MVO Block 15, Lot 17A, AP Subdivision File)
2. Notification letters were sent to the Corvallis Rural Fire District requesting comments on June 6, 2008, and December 9, 2008. (MVO Block 15, Lot 17A, AP Subdivision File)
3. An email dated June 25, 2008, states that Assistant Chief Don Hall reviewed the subdivision and has no concerns on the proposal. (Exhibit A-4)
4. The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted Fire Protection Standards (outlined in a document from the Hamilton Rural Fire District) that address access, posting of addresses, and water supply requirements. (Exhibit A-5)
5. In a letter dated May 29, 2008, the Corvallis Fire District has requested an increase in the donation per-lot in lieu of water supply from \$500-per-lot to \$900-per-lot. (Exhibit A-6)
6. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

- *Prior to final plat approval, the subdividers shall provide a letter from the Corvallis Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$900-per-lot contribution has been made to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
- *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information." (Condition 6)*

School District

7. The proposed subdivision is located within the Corvallis School District. (MVO Block 15, Lot 17A, AP Subdivision Application)
8. It is estimated that .5 school-aged children will be added to the Corvallis School District, assuming an average of 0.5 children per household. (Census 2000)
9. The applicant is proposing to contribute \$500 to the School District. (MVO Block 15, Lot 17A, AP Subdivision Application)
10. Notification letters were sent to the Corvallis School District requesting comments on June 6, 2008, and December 9, 2008. (MVO Block 15, Lot 17A, AP Subdivision File)
11. In a letter received June 12, 2008, Daniel Sybrant, Corvallis Schools Superintendent, stated that new subdivisions "certainly create added costs to this school district." Additionally, he stated the following: (Exhibit A-7)
 - a. The recently completed impact fee study for the Corvallis School District indicates that \$6800.00 per lot is requested to offset the costs to capital facilities.
 - b. That the BCC should negotiate a fair fee with developers that will help offset the actual costs of educating additional children.
 - c. That bus turnouts as well as shelters for students to stand under in inclement weather should be installed where appropriate.
12. Even though the Corvallis School District has completed an impact fee study, Ravalli County has not adopted impact fees to date for the Corvallis School District. The County cannot request a contribution for capital expenses until an impact fee has been adopted. (MCA 7-6-1603)
13. In his June 12, 2008 letter, Mr. Sybrant includes the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the tax levy per pupil, excluding capital, would be \$5,808 for the Corvallis School District. (Exhibit A-7)
14. The County School Superintendent, Ernie Jean, sent a letter to the Ravalli County Commissioners stating that the Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners

establish a requirement that the developers of each subdivision establish a shelter at a bus stop and turnout, or turnaround, if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-8)

15. The Preliminary Plat Decision for the Orchard Hills Estates Subdivision, located directly south of the proposed subdivision, states that the subdivider of Orchard Hills Estates shall construct a school bus turnout lane on the Mountain View Orchards Road frontage of the property, near the intersection of Corvallis Hills Drive with Mountain View Orchards Road. Alternatively, the applicant shall submit documentation from the Corvallis School District that states they do not require a turnout on the property. In addition, the preliminary plat application has a condition requiring the construction of an off-road bus shelter near the intersection of Corvallis Hills Drive and Mountain View Orchards Road. (Ravalli County Planning Department Subdivision File)
16. Although there is no way to ensure that the final plat for this subdivision shall be submitted or that these conditions will be met, the addition of one parcel does not appear to warrant a bus turnout or shelter. (Staff Determination)
17. *The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Corvallis School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 7)*

Public Safety

18. The Ravalli County Sheriff's Office provides law enforcement services to this area. (MVO Block 15, Lot 17A, AP Subdivision File)
19. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on June 6, 2008, and December 9, 2008, but no comments have been received from the Sheriff's Office. (MVO Block 15, Lot 17A, AP Subdivision File)
20. This proposed subdivision is located approximately 11 miles from the Sheriff dispatch in Hamilton. (MVO Block 15, Lot 17A, AP Subdivision File)
21. The average number of people per household in Ravalli County is 2.5. (Census 2000)
22. This proposal will add approximately 2.5 people to Ravalli County. (Census 2000)
23. The applicant is not proposing a contribution to the Sheriff's Office, E-911, or the Department of Emergency Services for the potential 2.5 additional people. (MVO Block 15, Lot 17A, AP Subdivision File)
24. *The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 8)*

Roads

25. There are two proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 16 vehicular trips per day, assuming eight trips per day per lot. (MVO Block 15, Lot 17A, AP Subdivision File)
26. Popham Lane and Mountain View Orchards Road, County maintained roads, provide access to the site. (MVO Block 15, Lot 17A, AP Subdivision File and Ravalli County GIS Data)

27. The applicant is required to pay pro rata towards improving Popham Lane and Mountain View Orchards Road. (Section 5-4-5, RCSR)
28. The preliminary pro rata estimate information included in the application infers that that the applicant will be required to contribute approximately \$3,828.66 in pro rata funds. (RCSR and MVO Block 15, Lot 17A, AP Subdivision Application)
29. Corvallis Hills Drive is a non-County maintained road that meets current County road standards. (MVO Block 15, Lot 17A, AP Subdivision File and Exhibit A-1)
30. The application states that there is an existing Road Maintenance Agreement for Corvallis Hills Drive, although one was not submitted with the application. (MVO Block 15, Lot 17A, AP Subdivision File)
31. The existing easement for Mountain View Orchards Drive is 50 feet. (MVO Block 15, Lot 17A, AP Subdivision File)
32. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
 - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
 - *The applicant shall provide evidence that they have joined an existing road maintenance agreement for Corvallis Hills Drive or provide a new, signed, and notarized Road Maintenance Agreement for Corvallis Hills Drive. The Road Maintenance Agreement shall state that other parcels that may have beneficial use of the roads shall be allowed to join as members of the agreement without the consent of the current members. (Condition 9)*
 - *A notification of the Road Maintenance Agreement for Corvallis Hills Drive shall be included in the notifications document filed with the final plat. (Condition 1)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
 - *The final plat shall show a no-ingress/egress zone along Mountain View Orchards Drive. (Condition 10 and Final Plat Requirement 2)*
 - *A notification of this limitation of access will be included in the notifications document. (Condition 1)*
 - *An additional 5 feet of public road and utility easement will be dedicated to Mountain View Orchards Road on the subdivision plat. (Condition 11)*

Ambulance Services

33. Ambulance services will be provided by either Marcus Daly Memorial Hospital EMS Department or Missoula Emergency Services.
34. Notification letters were sent to the Marcus Daly Memorial Hospital EMS requesting comments on June 6, 2008, and December 9, 2008, but no

comments have been received to date. (MVO Block 15, Lot 17A, AP Subdivision File)

35. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

36. Individual wells and wastewater treatment systems are proposed to serve both lots. The property is not near any municipal water or wastewater systems. (MVO Block 15, Lot 17A, AP Subdivision File)

Solid Waste Services

37. Bitterroot Disposal provides service to this site. (MVO Block 15, Lot 17A, AP Subdivision File)
38. Notification letters were sent to Bitterroot Disposal requesting comments on June 6, 2008, and December 9, 2008, but no comments have been received. (MVO Block 15, Lot 17A, AP Subdivision File)

Mail Delivery Services

39. An existing Collective Box Unit is located at the northeast corner of the intersection of Mountain View Orchards Road and Corvallis Hills Drive. (Staff Site Visit, November 19, 2008)
40. The Corvallis Post Office was contacted via a notification letter on June 6, 2008, and December 9, 2008, but no comments have been received. (MVO Block 15, Lot 17A, AP Subdivision File)

Utilities

41. The proposed subdivision will be served by NorthWestern Energy and Qwest Communications. Utility companies have been notified of the proposed subdivision. (MVO Block 15, Lot 17A, AP Subdivision File)
42. Notification letters were sent to the utility companies requesting comments on June 6, 2008, and December 9, 2008, but no comments have been received to date. (MVO Block 15, Lot 17A, AP Subdivision File)
43. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from NorthWestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 13)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. In a letter dated November 9, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula as areas

that failed to meet the National Ambient Air Quality Standards for particulate matter. There are no gravel roads accessing the subdivision. (Exhibit A-9)

2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)
3. *To mitigate impacts on air quality, the notifications shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 1)*

Ground/Surface Water

4. According to the application, there are no natural surface water sources on or within 300 feet of the property. (MVO Block 15, Lot 17A, AP Subdivision File)
5. The applicants are proposing individual wells and wastewater treatment facilities for all lots. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (MVO Block 15, Lot 17A, AP Subdivision File)
6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-10, MCA 76-3-622)
7. *The following conditions and requirements shall be met prior to final plat approval:*
 - *The applicant is required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Light Pollution

8. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association, www.darksky.org)
9. *To mitigate the impacts of light pollution stemming from new construction, the notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*

Vegetation

10. The applicants submitted a Ravalli County Ground Disturbance and Noxious Weed Management Plan that stated Common Tansy and Spotted Knapweed were scattered on the property. (MVO Block 15, Lot 17A, AP Subdivision Application)
11. The Montana Natural Heritage Program found that there were no plant species of concern within the same section as the subject property (MVO Block 15, Lot 17A, AP Subdivision Application).

12. Apart from the irrigation ditch, there do not appear to be any riparian areas located on the property. (Staff Site Visit, November 19, 2008)
13. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
14. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Archaeological Resources

15. There are no known sites of historical significance on the property. (MVO Block 15, Lot 17A, AP Subdivision Application)
16. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate." (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

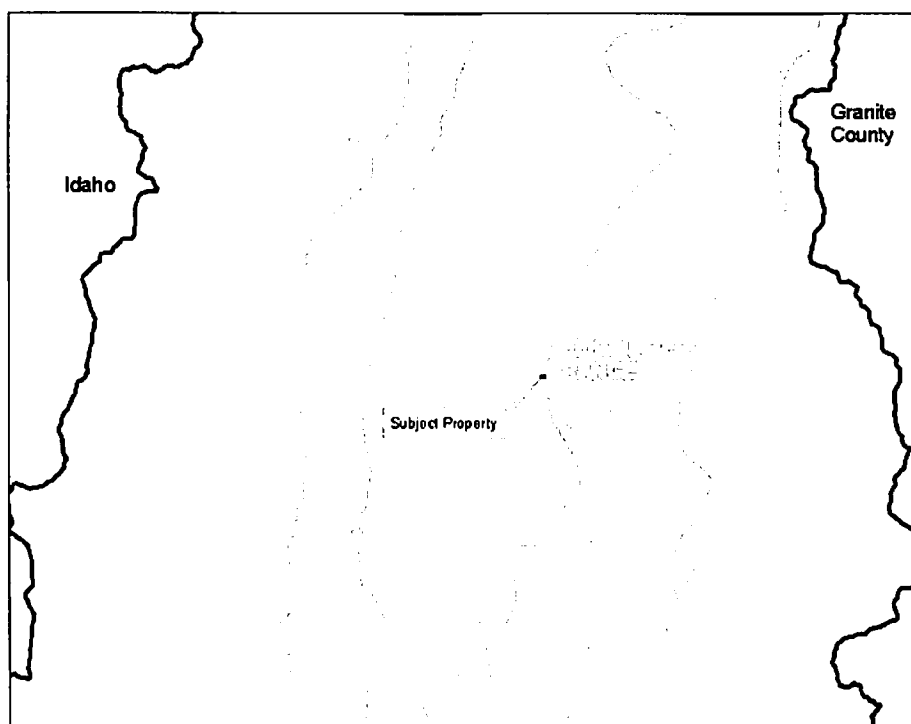
In a letter received October 21, 2008, FWP stated that this property has a general possibility of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-11)

FWP stated that wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie may be found in the area of the proposed subdivision. The proposed subdivision is part of the winter-spring range for mule deer population, and FWP observed around 50 mule deer adjacent to the property in April 2008. (Exhibit A-11)

The Montana Natural Heritage Program identified that the grey wolf, Townsend's big-eared bat, and the bobolink were located within the same section as the proposed subdivision. (MVO Block 15, Lot 17A, AP Subdivision File).

In June 2008, a sensitive species waiver request was granted by Renee Lemon, who at the time was the Senior Planner for the Ravalli County Planning Department, based on the lack of suitable habitat for the identified species. (Exhibit A-12)

Map 2 shows the elk winter range boundaries in relation to Mountain View Orchards Block 15, Lot 17A, AP at a scale of 1:250,000. The data was created by FWP and the Rocky Mountain Elk Foundation at a scale of 1:250,000 and should not be used at a larger scale (zoomed in closer to the proposed subdivision). At this scale, the property appears to be located on the periphery of the winter range.



Map 2: Elk Winter Range
(Source Data: FWP)

*To mitigate impacts on wildlife, the covenants shall include a living with wildlife section.
(Condition 2)*

Conclusion of Law:

With the mitigating condition of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Popham Lane, Mountain View Orchards Road, and Corvallis Hills Drive. (MVO Block 15, Lot 17A, AP Subdivision File)
2. Jennifer De Groot spoke with Bob Cron, of the Ravalli County Park Board, on December 19, 2008, regarding this subdivision. He stated that the Park Board did not comment on the subdivision because there was no parkland dedication required. In addition, he saw no need for a trail due to the size of the proposal and its location. (Exhibit A-13)
3. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

4. The proposed subdivision will be served by the Corvallis Rural Fire Department, the Ravalli County Sheriff's Office, Ravalli County E-911, the Ravalli County Department of Emergency Services, Missoula Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (MVO Block 15, Lot 17A, AP Subdivision File)
5. *The requirements and conditions listed under Fire District, Law Enforcement and County Emergency Services, Ambulance Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

6. The applicants are proposing individual wells and wastewater treatment facilities for all lots. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (MVO Block 15, Lot 17A, AP Subdivision File)
7. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-10, MCA 76-3-622)
8. *The applicant is required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

9. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
10. According to the Web Soil Survey for Ravalli County, there are no soils rated as "very limited" or "severe" for building or road construction. (MVO Block 15, Lot 17A, AP Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
11. *To mitigate the impacts of this subdivision on public health and safety, the following conditions shall be met:*
 - *To mitigate the impacts of light pollution stemming from new construction, the notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
 - *The notifications document shall include a statement regarding radon exposure. (Condition 1)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Rokosch questioned the soils classification of the land. Randy replied NCS has updated the soils map and referred Commissioner Rokosch to review the classification based on the updated map.

Commissioner Grandstaff opened public comment.

Terry stated they are in agreement with the Staff Report and presented offered mitigation to the Board. Mitigation presented were \$500 to School District, \$500 to Emergency

Services, \$250 to Open Land Program and \$900 to Corvallis Fire District per new lot payable upon final plat approval.

Mike Jorgenson stated he owns the property to the west of the subject property. He questioned the irrigation ditch with a proposed easement and the status. Terry replied there is no easement existing. He stated there will be an easement created of 10 feet upon approval of the subdivision. Mike questioned the split off. Terry replied the fork will be noted within the easement. Mike then questioned the entrances. Terry replied both entrances will be off of Corvallis Hills Drive.

Commissioner Rokosch questioned the compliance with prerequisites. He discussed the recommendation that Corvallis Hills Road have sealant. Terry replied chip seal has been done. Commissioner Rokosch questioned the irrigation easement and if the water comes from BRID. Terry replied yes. Commissioner Rokosch then asked if notification was received from BRID. Randy replied yes, BRID was contacted but nothing was received from them. Commissioner Chilcott asked Mike what his concern is with the fork and the irrigation easement. Mike replied he has a right to the water source from BRID. He discussed the water overflow with the ditch and his concern with the intermittent stream.

Commissioner Driscoll discussed the mitigation offered for the School District. She stated she would like to see more based on the tax levy per pupil which would be \$819 per lot. Commissioner Rokosch added it would be acceptable mitigation if it were \$819 per lot as well as bus shelters and turn outs. He stated there was discussion about the size of the subdivision not requiring a turn out.

Commissioner Rokosch discussed the soils being prime soil and would like to see additional mitigation for the loss of prime land. Commissioner Chilcott pointed out the classification is "prime soil if irrigated" and there are no water rights. Commissioner Rokosch suggested double the offered amount. Commissioner Chilcott stated history reflects no irrigation and does not agree. He stated he would like to see \$300 additional offered for School mitigation. Commissioner Rokosch also asked for \$200 for mitigation of General County Services. Terry agreed to the suggested mitigation offers. Commissioner Chilcott recapped the offered mitigation as follows:

\$800 to the Corvallis School District, \$500 to Emergency Services, \$250 to the Open Lands Program, \$200 for County General Services, and \$900 to the Corvallis Fire District per new lot payable upon final plat approval.

Commissioner Chilcott made a motion to approve the Mountain View Orchards Block 15, Lot 17A, AP First Minor Subdivision based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report and as mitigated here today.

Commissioner Rokosch questioned the pavement requirement. Randy replied the requirement is 18 feet wide with one foot of shoulder on each side making it a 20 foot width. Terry replied it is already 22 feet in width.

Commissioner Rokosch seconded the motion and all voted 'aye'.

Randy questioned the amendment to the plat to reflect the easement on both forks of the stream. Terry replied yes, it will be amended.

► Commissioner Chilcott participated in a conference call with MACo Urban Counties Legislation at noon.